



15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mary K. Toth et al.

Examiner: Hao T. Mai

Serial No.: 09/483,039

Group Art Unit: 1761

Filed: January 18, 2000

Docket No.: GMI5212USA (G180.122.101)

Due Date: May 4, 2003

Title: ATTACHABLE SNACK FOOD CONTAINER

RESPONSECommissioner for Patents
Washington, D.C. 20231**RECEIVED**

APR 30 2003

OFFICE OF PETITIONS

Dear Sir/Madam:

This Amendment is responsive to the Office Action mailed February 4, 2003. In that Office Action, the Examiner rejected claims 1-16, 18-34, 36-41, and 43-48 under 35 U.S.C. §102(a) as being anticipated by the PCT Application from Ferraro et al. with publication number WO 99/26847 ("the Ferraro application"). The Examiner further rejected claims 17, 35, and 42 under 35 U.S.C. §103(a) as being unpatentable over Ferraro in view Brauner et al., U.S. Patent No. 5,318,787. A Declaration under 37 C.F.R. §1.131 is concurrently submitted with this Response. It is believed that all pending claims are in a condition for allowance.

35 U.S.C. §§ 102 and 103 Rejections

In rejecting claims 1-48 under 35 U.S.C. §102(a) the Examiner has relied upon the Ferraro application as the sole or primary reference. The Ferraro application was published on June 3, 1999. Therefore, the Ferraro application was first available as a reference on June 3, 1999. As described in the concurrently submitted Declaration under 37 C.F.R. 1.131, of Arne H. Brauner in accordance with 37 C.F.R. 1.47(a), the claimed invention was conceived prior to June 3, 1999 and the present application was diligently filed thereafter. As such, it is respectfully submitted that the Ferraro application, as relied upon by the Examiner, is not an available reference under 35 U.S.C. §102(a) or under 35 U.S.C. §103(a). Thus, it is respectfully requested that the rejection of claims 1-48 be withdrawn.

Amendment and Response

Applicant: Mary K. Toth et al.

Serial No.: 09/483,039

Filed: January 18, 2000

Docket No.: GMI5212USA (G180.122.101)

Title: ATTACHABLE SNACK FOOD CONTAINER

CONCLUSION

In light of the above, Applicants believe independent claims 1, 19, 38, 43, and 46 and the claims depending therefrom, are in condition for allowance. Allowance of these claims is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 500471.

The Examiner is invited to contact the Applicants' Representative at the below-listed telephone number if there are any questions regarding this response.

Respectfully submitted,

Mary K. Toth et al.,

By their attorneys,

DICKE, BILLIG & CZAJA, P.A.

Fifth Street Towers

100 South Fifth Street, Suite 2250

Minneapolis, MN 55402

Telephone: (612) 573-2004

Facsimile: (612) 573-2005

RECEIVED

APR 3 02003

OFFICE OF PETITIONS

Date: April 22, 2003
TAC:jms

Timothy A. Czaja
Timothy A. Czaja
Reg. No. 39,649

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Commissioner for Patents, Washington, D.C., 20231 on this 22nd day of April, 2003.

By Timothy A. Czaja

Name: Timothy A. Czaja